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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

**PACIFIC RIM LAND DEVELOPMENT,
LLC,**

Plaintiff,
vs.

IMPERIAL PACIFIC INTERNATIONAL (CNMI), LLC,

Defendant.

Case No. 1:19-cv-00016

**MOTION FOR TURNOVER,
ASSIGNMENT, AND JUDICIAL
SALE OF CERTAIN OF
JUDGMENT DEBTOR'S CASINO
GAMING MACHINES**

Date: October 22, 2020

Time: 9:00 am

Judge: Ramona V. Manglona

COMES NOW, plaintiff Pacific Rim Land Development, LLC (“Pacific Rim”), judgment creditor herein, by and through its attorney of record Colin M. Thompson, pursuant to Rule 69 of the Federal Rules of Civil Procedure (“Rule(s)”) and 7 CMC §§ 4104, 4204, hereby move this Court for orders based on the Motion (the “Motion”) For Turnover, Assignment, and Judicial Sale of Certain Casino Gaming Machines of Imperial Pacific International (CNMI), LLC (“IPI”). 7 CMC § 4104 empowers the Court with broad authority to enforce its judgments. The statute provides in relevant part that the Court may order the "taking possession of property and disposing of it in accordance with the orders of the court, or by a civil action on the judgment, or in any other manner known to American common law or common in courts in the United States". This Motion seeks orders authorizing the

1 orderly sale of gaming machines for the purpose of reducing the amount of the judgment entered in
2 favor of Pacific Rim.

3 **A. BACKGROUND**

4 1. On April 27, 2020, the United States District Court entered judgement in favor of
5 Pacific Rim in the amount of \$5,650,000.00 against IPI (ECF 106). On May 28, 2020, the Court
6 amended its judgement in favor of Pacific Rim in the amount of \$6,909,333.43 against IPI (ECF 133)
7 (the “Judgment”). On June 22, 2020, Pacific Rim filed a Motion for Order in Aid of Judgement (ECF
8 159). That same day, the Court issued an Order Granting in Part and Denying in Part Motion for Order
9 Authorizing Release of Funds to Plaintiff and directed the Clerk to release the funds received from
10 Bank of Saipan to Pacific Rim in the amount of \$1,383,869.45 (one million three hundred eighty-three
11 thousand eight hundred sixty-nine and 45/100) (ECF 171). On July 23, 2020, the Court issued a Sua
12 Sponte Order Authorizing Release of Funds to Plaintiff in the amount of \$100.00 (one hundred and
13 00/100) (ECF 179). Therefore, the balance due on the Judgment is not less than \$5,525,363.98.

14 2. On August 24, 2020, Pacific Rim filed an Application for Writ of Execution for IPI’s
15 Gaming Machines or for Order in Aid of Judgement (ECF 192). On August 25, 2020, the
16 Commonwealth of the Northern Mariana Islands Government (“CNMI Government”) filed a Notice
17 of Tax Lien (ECF 196). On September 16, 2020, the parties Pacific Rim and the CNMI Government
18 filed a Stipulation of Settlement between the CNMI Government and Pacific Rim (ECF 209). On
19 September 17, 2020, the court issued an Order Granting Stipulation of Settlement between the CNMI
20 Government and Pacific Rim (ECF 210).

21 **B. OWNERSHIP INTERESTS OF IPI IN CERTAIN CASINO GAMING MACHINES**

22 On July 23, 2020, Pacific Rim served IPI with a notice of deposition pursuant to Rule 30(b)(6)
23 of the Federal Rules of Civil Procedure (the “Notice of Deposition”). Pursuant to the Notice of
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1 Deposition, IPI's Chief Executive Officer, Donald Browne, appeared for the deposition at the office
 2 of Pacific Rim's counsel on August 8, 2020 (the "Browne Deposition"). In the course of the Browne
 3 Deposition, IPI has asserted that it owns 404 casino gaming machines. During the Browne Deposition,
 4 IPI's counsel emailed Pacific Rim's counsel a detailed listing of the 404 casino gaming machines
 5 owned by IPI. A detailed list of the 404 casino gaming machines owned by IPI (the "IPI Gaming
 6 Machines") is attached as **Exhibit A** to the Declaration of Counsel¹ and by express reference made a
 7 part hereof. IPI received a valuation of the Gaming Machines from Clear Management Group of Two
 8 Million Two Hundred Fifty Thousand US Dollars (\$2,250,000.00). The valuation is attached as
 9 **Exhibit B** to the Declaration of.

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 11 **C. REQUEST FOR JUDICIAL SALE OF IPI GAMING MACHINES**

12 Pacific Rim respectfully requests that the Court enter an order authorizing a Judicial Sale of
 13 the IPI Gaming Machines pursuant to Rule 69 and CNMI law. Rule 69(a) provides that CNMI
 14 procedures on execution, and in proceedings supplementary to and in aid of execution, of a judgment
 15 apply to this Judgment. The CNMI statutes governing proceedings supplementary is 7 CMC §§ 4104,
 16 4204 (the "CNMI Statute"). Under the CNMI Statute, the IPI Gaming Machines identified in
 17 discovery may now be ordered sold at auction with the sale proceeds applied in satisfaction of the
 18 Judgment. Under the CNMI Statute, all of such IPI Gaming Machines that are identified shall be sold
 19 "at public auction to the highest bidder." *See*, § 4204(c) of CNMI Statute. Pursuant to § 4204(e) of the
 20 CNMI Statute, "any other person duly authorized may complete the levy, sale, and payment of
 21 proceeds". Accordingly, under these circumstances, Pacific Rim requests that the Court approve the
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27 ¹ Declaration of Colin M. Thompson filed concurrently in Support of Motion for Turnover, Assignment, and Judicial Sale
 28 of Certain Judgment Debtor's Casino Gaming Machines.

1 following procedures for a judicial sale of the IPI Gaming Machines under the CNMI Statute, as is
2 more fully set forth in the Proposed Order:

3 a. IPI's right, title and interest, if any, in and to the IPI Gaming Machines may be sold by
4 Pacific Rim, pursuant to the terms described below, and the proceeds received, if any, shall be applied
5 to reduce the Judgment and CNMI Government Tax Lien pursuant to the Order Granting Settlement
6 of CNMI Government and Pacific Rim (ECF No. 210) and permitted costs that Pacific Rim has or
7 may incur from and after the date of the Judgment:

8 I. The IPI Gaming Machines shall be sold by Pacific Rim's agent (the "Selling
9 Officer") in 404 separate lots consisting of individual casino gaming machines, with each lot
10 being sold to the highest and best bidder, if any (the "Successful Purchaser(s)"), for cash
(including certified or cashier's check) at a publicly advertised auction to be conducted by the
Selling Officer on a date which is no sooner than seven (7) days following the initial
publication of the "Notice" (hereafter defined) in the Marianas Variety and the Saipan Tribune
(the "Auction");

II. Pacific Rim shall (i) advertise the Auction to the public by placing ads in the
Marianas Variety and the Saipan Tribune for five consecutive days in a form substantially
similar to **Exhibit C** to Declaration of Counsel and by express reference made a part hereof
(the "Notice") and (ii) at least seven days prior to the date of the Auction (a) notify the clerk
of court, (b) post a written notice of the sale in a conspicuous place at or near the CNMI
Superior Court, and by (c) notifying IPI, or its agent who have custody of the property levied
upon at the time of levy;

III. The Auction shall be held at a location designated and advertised by the Selling
Officer, Saipan, Commonwealth of the Northern Mariana Islands;

IV. Pacific Rim or the Selling Officer may, in their sole and absolute discretion,
advertise and auction to off-island bidders as well as direct the Selling Officer to terminate
and/or continue the Auction, which termination or continuance shall be announced at the
Auction;

V. Prior to the Auction, IPI shall permit Pacific Rim, the Selling Officer, or any
agent of either, as well as any prospective Auction bidders to have reasonable access to the IPI
Gaming Machines upon reasonable notice (no less than 24 hours notice) for the purpose of
inspecting any or all of the IPI Gaming Machines or the documents relating thereto;

VI. The Successful Purchaser(s) shall, at the conclusion of the Auction, make
payment to the Selling Officer of the successful bid amount (the "Sale" or "Sale Proceeds")
paid by cash or certified funds, which funds the Selling Officer shall hold pending approval of
the "Confirmation Order" (hereafter defined), provided however, in the event that Pacific Rim
or its assigns, with respect to the Judgment, is the Successful Purchaser of any of the IPI
Gaming Machines at the Auction, then Pacific Rim or its assigns, whichever is applicable, may
offset against the Sale Proceeds due for such IPI Gaming Machine(s), the amounts due under
the Judgment upon the entry of the Confirmation Order;

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VII. Unless expressly agreed to in writing, the Successful Purchaser shall not
assume, or become liable for, any liabilities of IPI as a result of its purchase of any of the IPI
Gaming Machines in connection with the Auction and/or Sale; and

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VIII. Within seven (7) days following the conclusion of the Auction, the Selling
Officer shall file with this Court a report of the Auction and Sale, evidencing that the foregoing
procedures have been complied with, specifying what occurred at the Auction, and identifying
the amount of Sale Proceeds realized and the proposed disposition of the IPI Gaming Machines
as a result of the Auction (the "Sale Report").

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b. The Court shall make its determination for approval of the Sale Report, and for
confirmation of the Sale of the IPI Gaming Machines, if any, to the Successful Purchaser(s) at the
Auction pursuant to the terms described herein (the "Confirmation Order").

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c. Upon the entry of the Confirmation Order, (I) the Selling Officer shall thereafter
execute a bill of sale to the Successful Purchaser which shall be sufficient to convey all right, title,
and interest of IPI, in and to, the IPI Gaming Machine(s) in the form of that bill of sale which is
attached as **Exhibit D** to the Declaration of Counsel and by express reference made a part hereof (the
"Judicial Bill of Sale"), (II) the Selling Officer shall have the right thereafter to execute any other
documents necessary to convey all right, title, and interest of IPI, in and to, the IPI Gaming Machine(s)
to the respective Successful Purchaser(s), (III) all parties or persons receiving notice of the Auction
shall be forever barred and foreclosed of any right, title, interest, claim, lien, or lease in and to the IPI
Gaming Machines sold to the respective Successful Purchaser(s) at the Auction, and (IV) the Selling
Officer shall thereafter turnover the Sale Proceeds to Pacific Rim or its assigns.

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d. Immediately following the entry of the Confirmation Order, IPI shall promptly (I)
turnover possession of the IPI Gaming Machines sold pursuant to the Judicial Bill of Sale to the
respective Successful Purchaser including, without limitation, IPI shall provide access to the
Successful Purchaser(s) for removal of the IPI Gaming Machine(s) purchased at the Auction; and (II)
take all of such other actions and execute any documents that may be reasonably necessary to
consummate and give effect to the Judicial Bill of Sale of any IPI Gaming Machines including, without
limitation, executing such documents as may be necessary to transfer ownership and possession of the
IPI Gaming Machine(s).

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e. Upon the entry of the Confirmation Order, IPI and all persons claiming by, through or
under it, and each and any and all of them, shall be forever barred and foreclosed of any right, title,
interest, claim, lien, lease, or right to redeem in and to the IPI Gaming Machines sold at the Auction
and approved in the Confirmation Order.

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f. The Court hereby retains jurisdiction of the subject matter of this cause and of all the
parties hereto for the purpose of enforcing this Order.

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The notice and sale procedures described above and in the Proposed Order are fair and
reasonable and follow the CNMI Statute requirements. These procedures require a minimum of 5 days

1 published notice in the Marianas Variety and the Saipan Tribune. However, the Selling Officer may
2 wish to advertise the sale off-island. The costs for such publication are anticipated to be in excess of
3 \$2,500 (which costs are added to the Judgment under § 4204(c) of the CNMI Statute), and any such
4 additional notice is not only expensive but is far more than other statutory provisions require.
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6 Similarly, there is no provision in the CNMI Statute requiring that the Court enter a
7 Confirmation Order following the Sale. However, since other judicial sales procedures and case law
8 in other jurisdictions require an order confirming and approving of a judicial sale following the sale,
9 Pacific Rim requests that the Court set a status hearing, as described in the Proposed Order, to approve
10 of the Selling Officer's Sale Report and to confirm that the procedures set forth in the Proposed Order
11 were properly implemented in connection with the Auction.
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13 For the foregoing reasons, Pacific Rim requests that the Court enter an order which directs the
14 turnover, assignment, and judicial sale of the IPI Gaming Machines, with the proceeds, if any, to be
15 applied against the Judgment pursuant to the CNMI Statute.
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17 WHEREFORE, for the above and foregoing reasons, the plaintiff Pacific Rim Land
18 Development, LLC, judgment creditor herein, prays for the entry of an order allowing Pacific Rim to
19 privately sell and/or auction the IPI Gaming Machines, and for such other and further relief as is just.
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21 Respectfully submitted this 16th day of October, 2020.
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/s/ Colin M. Thompson
THOMPSON LAW, LLC
Colin M. Thompson
Attorney for Pacific Rim Land
Development, LLC